

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

2011 MAY -2 PM 1:45

DEPUTY CLERK fwMOTION UNDER 28 U.S.C. SECTION 2255,
TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A
PERSON IN FEDERAL CUSTODY

UNITED STATES OF AMERICA

FCI RAY BROOK, RAY BROOK, NEW YORK
PLACE OF CONFINEMENT

vs.

34641-177

PRISONER ID NUMBER

JOSHA HEATH ZUNIGA

MOVANT (full name of movant)

5:06-CR-067-C

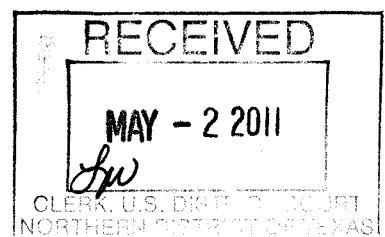
CRIMINAL CASE NUMBER

5-11 CV0083-C

(If movant has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion in the federal court which entered the judgment.)

INSTRUCTIONS – READ CAREFULLY

1. This motion must be legibly handwritten or typewritten, and signed by the movant under penalty of perjury. Any false statement of material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.
2. Additional pages are not permitted except with respect to the fact which you rely upon to support your grounds for relief. No citation of authorities needs to be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
3. Upon receipt, your motion will be filed if it is in proper order.



4. If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed *in forma pauperis*, in which event you must execute the declaration provided with this motion, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed *in forma pauperis*, you must have an authorized officer at the penal institution completed the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
5. Only judgments entered by one court may be challenged in a single motion. If you seek to challenge judgments entered by different judges or divisions either in the same district or in different districts, you must file separate motions as to each such judgment.
6. Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the motion you file seeking relief from any judgment of conviction.
7. When the motion is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court for the Northern District of Texas at the appropriate divisional office whose address is:

Abilene Division

P.O. Box 1218
Abilene, TX 79604

Amarillo Division

205 E. 5th St, Rm 133
Amarillo, TX 79101

Dallas Division

1100 Commerce, Rm 1452
Dallas, TX 75242

Fort Worth Division

501 w. 10th St, Rm 310
Fort Worth, TX 76102

Lubbock Division

1205 Texas, Ave., Rm 209
Lubbock, TX 79401

San Angelo Division

33 East Twohig St, Rm 202
San Angelo, TX 76903

Wichita Falls Division

P.O. Box 1234
Wichita Falls, TX 76307

8. Motions which do not conform to these instructions will be returned with a notation as to the deficiency.

MOTION

1. Name and location of court that entered the judgment of conviction you are challenging:

**United States District Court For The Northern District of Texas, Lubbock Division
Lubbock, Texas**

2. Date of judgment of conviction:

February 22, 2007

3. Length of sentence: **120 months (10 years) imprisonment; Life term of supervised release**

4. Nature of offense involved (all counts):

Possession of Child Pornography (1 count); Enticement of a Child (1 count); Production of Child Pornography (3 counts); Transportation of Child Pornography (3 counts)

5. (a) What was your plea? (Check one)

Not Guilty Guilty Nolo contendere (no contest)

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

Petitioner pled guilty to one count of Possession of Child Pornography (count 8 of the indictment) and was sentenced to 120 months imprisonment and supervised release for a term of life. All remaining counts contained in the indictment were dismissed by the Government pursuant to a plea agreement between the parties.

6. If you went to trial, what kind of trial did you have? (Check one) Jury Judge Only

7. Did you testify at the trial? (Check one) Yes No

8. Did you appeal to the judgment? (Check one) Yes No

9. If you did appeal, answer the following:

Name of Court: N/A

Result: N/A

Date of Result: _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes No

11. If your answer to 10 was "Yes" give the following information:

Name of Court: N/A

Nature of proceeding:

Grounds raised:

Did you receive an evidentiary hearing on your petition, application or motion?

Yes No

Result:

Date of Result: _____

As to any *second* petition, application or motion, give the same information:

Name of Court: N/A

Nature of proceeding:

Grounds raised:

Did you receive an evidentiary hearing on your petition, application or motion?

Yes No

Result: _____

Date of Result: _____

As to any *third* petition, application or motion, give the same information:

Name of Court: N/A

Nature of proceeding: _____

Grounds raised: _____

Did you receive an evidentiary hearing on your petition, application or motion?

Yes No

Result: _____

Date of Result: _____

Did you appeal to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

First petition, etc. Yes No

Second petition, etc. Yes No

Third petition, etc. Yes No

If you did not appeal form the adverse action on any petition, application or motion, explain briefly why you did not:

12. State concisely every ground on which you claim that you were being held unlawfully. Summarize briefly in facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed. However, you should raise in this petition all available grounds, (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

DO NOT CHECK ANY OF THESE LISTED GROUNDS. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you merely check (a) through (j) or any of these grounds.

- a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- b) Conviction obtained by use of coerced confession.
- c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- e) Conviction obtained by a violation of the privilege against self-incrimination.
- f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- g) Conviction obtained by a violation of the protection against double jeopardy.
- h) Conviction obtained by action of grand or petit jury which was unconstitutionally select and impaneled.
- i) Denial of effective assistance of counsel.
- j) Denial of right to appeal.

A. Ground One:

Denial of Effective Assistance of Counsel

Supporting FACTS (tell your story briefly without citing cases or law):

Please see attached Supporting Memorandum

B. Ground Two:

Supporting FACTS (tell your story briefly without citing cases or law):

C. Ground Three:

Supporting FACTS (tell your story briefly without citing cases or law):

D. Ground Four:

Supporting FACTS (tell your story briefly without citing cases or law):

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

N/A but please see attached Supporting Memorandum

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?
No

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment and attacked herein:

a) At preliminary hearing:

**Mark Eiglarsh
404 Washington Avenue, #750
Miami Beach, Florida 33139**

b) At arraignment and plea:

**Mark Eiglarsh
404 Washington Avenue, #750
Miami Beach, Florida 33139**

c) At trial:

N/A

d) At sentencing:

**Mark Eiglarsh
404 Washington Avenue, #750
Miami Beach, Florida 33139**

e) On appeal:

N/A

f) In any post-conviction proceeding:

N/A

g) On appeal from any adverse ruling in a post-conviction proceeding:

N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

No

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

No

a) If so, give name and location of court which imposed sentence to be served in the future:

N/A

b) And give date and length of sentence to be served in the future:

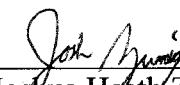
N/A

c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes No

Wherefore, movant prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on March 21, 2011 (date).



Joshua Heath Zuniga, USM #34641-177

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

CASE HISTORY

On July 12, 2006 a federal grand jury sitting in Lubbock, Texas returned an eight (8) count indictment charging Joshua Heath Zuniga (“Petitioner”) with one count of enticement of a child, three counts of production of child pornography, three counts of transportation of child pornography, and one count of possession of child pornography.

Petitioner entered into a negotiated plea agreement wherein he agreed to plead guilty to one count of possession of child pornography in exchange for the government's dismissal of all remaining charges. As part of the plea agreement, Petitioner agreed to waive his right to file a direct appeal from his conviction and sentence. Petitioner further waived his right to contest his conviction and sentence in any collateral proceeding, including proceedings under 28 U.S.C. §§ 2241 and

2255. However, Petitioner's right to pursue a claim of ineffective assistance of counsel through a motion pursuant to 21 U.S.C. §2255 was reserved.

Petitioner subsequently entered a plea of guilty to one count of possession of child pornography. The remaining counts contained in the indictment were, upon motion of the government, dismissed in accordance with the parties' plea agreement. On March 23, 2007 the United States Probation Office prepared and submitted a Pre-sentence Investigation Report ("PSI") to the Court in anticipation of sentencing.

On May 10, 2007 Federal District Court Judge Sam R. Cummings sentenced Petitioner to ten years imprisonment, supervised release for life, restitution in the amount of \$500.00, and a special assessment of \$100.00. Petitioner is currently in the custody of the Federal Bureau of Prisons.

ISSUE

PETITIONER WAS DENIED THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

ARGUMENT I

Under the Sixth Amendment to the United States Constitution, a criminal defendant has a right to receive reasonably effective assistance from his attorney.

Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L.Ed. 2d 674

(1984). A two-prong test for determining whether a defendant received constitutionally adequate representation was established by the Supreme Court in Strickland, in which the Court held that an individual, who asserts an ineffective assistance of counsel claim, must demonstrate that: (1) his attorney's performance fell below an objective standard of reasonableness, given by all of the circumstances and prevailing professional norms; and (2) a reasonable probability exists that, but for the attorney's unprofessional errors, the result of the proceeding would have been different.

When a defendant alleges that he received ineffective assistance of counsel, he must prove that counsel's performance was deficient and that his deficient performance prejudiced the defendant's case. Strickland v. Washington 466 U.S. 668, 104 S. Ct. 2052, (1984). In order to meet his burden of proof, the petitioner must demonstrate errors and omissions on the part of the trial counsel such that counsel's deficiency prejudiced the defense as to deprive the petitioner of a fair trial. Wilson v. State, 315 S.C. 158, 432 S.E.2d 477 (1992); Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Petitioner respectfully submits the following instances when his counsel's inadequate representation satisfied the criteria set out in Strickland.

1. Counsel's failure to move to suppress evidence obtained during an illegal search and seizure.

The fourth amendment guarantees that all people shall be “secure in their persons, houses, paper, and effects against unreasonable searches and seizures.” U.S. Const. amend. IV. In deciding whether a Fourth Amendment violation has occurred, the threshold question is to determine whether the challenged governmental act is a “search” or “seizure” within the scope of the Fourth Amendment. Skinner v. Ry. Labor Executives' Ass'n, 489 U.S. 602, 614, 109 S.Ct. 1402, 103 L.Ed. 2d 639 (1989). The Fourth Amendment is implicated when the person invoking its protection can claim a “legitimate expectation of privacy” in the place searched or the item seized. Rakas v. Illinois, 439 U.S. 128, 143, 99 S.Ct. 421, 58 L.Ed. 2d 387 (1978)(citing Katz v. United States, 389 U.S. 347, 353, 88 S.Ct. 507, 19 L.Ed. 2d 576 (1967)); U.S. v. Simons 206 F.3d 392, 398 (4th Cir. 2000). A “legitimate expectation of privacy” is “one that society is prepared to recognize as objectively reasonable.” Simons 206 F.3d at 398 (internal citation omitted). The primary purpose of the Fourth Amendment is to prevent arbitrary and oppressive interference by enforcement officials with the privacy and personal security of individuals. U.S. v. Weaver, 282 F.3d 382. The touchstone of Fourth Amendment Analysis is always reasonableness. U.S. v. Dunnock, 295 F.3d 431. The general

rule is that Fourth Amendment seizures are “reasonable” only if based on probable cause. Rogers v. Pendleton, 249 F.3d 279.

In the case at bar, Petitioner’s attorney failed to challenge an unlawful search and seizure conducted by law enforcement. The evidence will show that federal law enforcement “broke” into the Petitioner’s residence when no one was at home and without a valid search warrant. During this illegal unconstitutional entry and search, law enforcement seized computers, personal papers, and other personal effects of the Petitioner. The purpose of seizing these items was to use them for prosecution of Petitioner. Had defense counsel successfully moved to suppress the evidence seized during the illegal search, the Government’s case against the Petitioner would have been substantially weakened. Unfortunately for Petitioner, his attorney failed to make such a motion which fell below an objective standard of reasonableness. As a result, Petitioner was clearly prejudiced by counsel’s deficiencies.

2. Counsel’s legal assistance was ineffective when counsel failed to challenge any statement Petitioner gave to law enforcement without an attorney present.

In the United States Supreme Court’s landmark decision Miranda v. Arizona, 384 U. S. 436 (1966) it was held due to the coercive nature of the custodial

interrogation by police, no confession could be admissible under the Fifth Amendment self-incrimination clause and Sixth Amendment right to an attorney unless a suspect had been made aware of his/her rights and the suspect had then waived them. The court further held that the person in custody must, prior to interrogation, be clearly informed that he has the right to remain silent, and that anything he says will be used against him in court; he must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation, and that, if he is indigent, a lawyer will be appointed to represent him.

In the case *sub judice*, Law enforcement aggressively and coercively interrogated Petitioner in connection with this matter without first advising him of his Fifth Amendment rights as mandated by Miranda. When this was brought to his attorney's attention, counsel, for some unknown reason, decided not to move to have anything Petitioner had said to law enforcement suppressed. Again, his attorney's actions fell below an objective standard of reasonableness which clearly prejudiced Petitioner.

3. Counsel failed to scrutinize any psychological reports relating to the alleged victim.

During counsel's investigation of Petitioner's case, it was revealed that the alleged victim was undergoing psychological counseling for matters ostensibly in connection with Petitioner's charged offenses. Petitioner and his family repeatedly requested that counsel obtain and scrutinize the records of the alleged victim's psychological counseling. Petitioner further instructed his attorney to investigate whether the alleged victim had ever undergone psychological counseling/treatment before Petitioner was accused of having sex with her. Again, counsel failed to investigate this crucial development in Petitioner's case.

Due to counsel's lackadaisical attitude toward the potential importance of the alleged victim's psychological history, Petitioner never had the means to determine if the alleged victim was a pathological liar, had been sexually traumatized by someone else, suffered from any phobias, etc. The inaction of counsel in this regard was clearly below any standard of reasonableness and potentially prejudiced the Petitioner in his preparation to defend himself against the accusations made toward him.

CONCLUSION:

Based on the foregoing, Petitioner is informed and believes that an evidentiary hearing should be granted in this matter due to the complexity of the issues raised and , after a full review by this Honorable Court, his conviction and/or sentence should be vacated.

**PETITIONER'S MOTION FOR AUTHORIZATION TO FILE
OUT-OF-TIME 28 U. S. C. §2255 ACTION**

NOW COMES PETITIONER, Joshua Heath Zuniga, who respectfully moves this Honorable Court to issue an Order authorizing Petitioner to file an out-of-time 28 U. S. C. 2255 action on the grounds of equitable tolling. To support this Motion, Petitioner submits the following:

Equitable Tolling

In Calderon v. United States District Court, 112 F.3d 386 (9th Cir. 1997), the Ninth Circuit held that the one-year time limit contained in the AEDPA §101 is not jurisdictional, but a statute of limitations subject to equitable tolling and waiver. The Court noted that §101 is “phrased only as a ‘period of limitation,’ and ‘does not speak in jurisdictional terms or refer in any way to the jurisdiction of the district courts.’ ” Moreover, 28 U.S.C. §2241, the jurisdictional provision of the

habeas statute, does not "limit" jurisdiction to those cases in which there has been a timely filing" in the district court. Finally, nowhere in the Act's legislative history is there any mention of §101 as a limitation on federal court jurisdiction.

Accordingly, equitable tolling is available in the present case.

Equitable tolling "will be granted if extraordinary circumstances beyond the prisoner's control make it impossible to file a petition on time."

Petitioner submits extraordinary circumstances beyond Petitioner's control precluded him from filing a timely §2255 action. During the one-year period allowed for filing a §2255 action, Petitioner's family approached individual's who held themselves out to be attorneys who specialize in federal post-conviction relief practices. Petitioner's family hired these individuals to prepare an action for Petitioner and paid them approximately \$250,000.00 for their services. It was later discovered that these individuals were running a scam which also involved some employees of the Federal Bureau of Prisons. Not only did the Zuniga family lose their money but the time for filing a proper action had expired pursuant to the AEDPA.

To better explain the extent and complexity of this fraud, Petitioner has attached the following affidavits for the Court's edification.

1. Affidavit of Catherine Zuniga- Petitioner's mother- exhibit 1

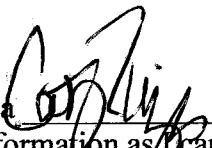
2. Affidavit of Domingo Zuniga, Jr.- Petitioner's father- exhibit 2

3. Affidavit of Jordan Zuniga- Petitioner's wife- exhibit 3

Based on the foregoing and supporting affidavits, Petitioner respectfully asks this Honorable Court to issue an Order allowing him to file the preceding §2255 action out-of-time due to equitable tolling.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jordan Zuniga", is written over a horizontal line.

I prepared this as a sworn statement from Cathy Ann Zuniga  that the events below are truthful and as close to exact dates and information as I can remember from documented proof to notes we made and events we have experienced.

Contacted by Betty Rochelle from Beaumont, Texas in August of 2008. Betty's son was incarcerated in Beaumont FCI Low with my son, Joshua Zuniga, they worked together in the education department. She called us after Josh was transferred from Beaumont to Yazoo City, Mississippi FCI Low. She said she knew some people who might be able to help us get Josh home, using a Rule 35B, which she said she didn't really understand but they had helped some people she knew. She said she would give us their number and then it was up to us to decide if they could help us.

On 9/1/2008 or thereabouts we called the phone number we were given by Betty Rochelle and talked to a man that called himself Al and another called Greg. We later learned that Al was Al Warrick Jr. They informed us that we could have them review Josh's information and they would see if they could get the Judge and Prosecutor (from Josh's case) to agree to a Rule 35B for Josh. They claimed that what they did was get approval to work cases in exchange for reduced time for Josh and or getting him released. Each case would cost a certain amount of money and that the money then was divided up between judge, prosecutor and the guys bringing in the cases. They claimed it was very dangerous and that also each agency handled the cases differently. They said that while it was perfectly legal, it was not done so as to draw media and or other public attention. They incriminated many officials and with all we had been through, (the lies that the FBI told us and then said about us in court, the lies from our own family that put Josh and us in this situation), we didn't find any of this hard to believe. Until this situation we had never faced any form of legal problems. We were all upstanding citizens and just did what we could to help people, and that put our son in prison. He was just trying to help a very mixed up and sad young woman, whom is now recently married and living a fine life after destroying ours. We faxed case information to them (Al and Greg) on 9/3/2008 and we have a copy of the fax receipt and number it was sent to. They told us we needed to pay \$8k up front for them to see about taking the case. Then they claimed the judge wanted \$40k to support this request and 32 cases - at \$8k each, total at approximately \$256k. This number increased over time; it started out around \$100k and increased over the course of the next year ending up at the above number. They said they would give us a couple of free cases along the way! This information transpired after several phone calls and discussions back and forth. After faxing information regarding Josh's case to them and having a few meetings with them which they came to Dallas for. We explained the case to them and the fact that the FBI was a friend of the family, that he lied to us and then put information in his report that was not only falsified but was also not said. We also showed them the lousy legal support we had received and the proof we had from MySpace and Facebook; the documented evidence that showed she lied about everything she had said that Josh had done, including the fact her family also lied and that they (her mother, step-father Kevin as well as grandparents) had documented proof she was taken out of her school because of another person. That person was Kenny, supposedly he had abused her, etc. and then she came and stood there and lied to everyone (in court), they (her family) used Josh as their scapegoat to cover up bad parenting and a young woman

who made a lot of mistakes. We tried to help and for that we lost everything. We made our first \$8,000 payment to Al and Greg via Western Union on 9/4/2008 & 9/12/2008. We then proceeded to pay them mostly in cash payments which they either came to Dallas and picked up or we met them in Shreveport, LA for money drops. We did send a few more Western Union as well. We met with them on many occasions and while we had our doubts they seemed to have all the information, and we did know this process was real, we just didn't have any idea how it really worked.

When Mark Amos, a former inmate at Beaumont FCI Low, contacted Josh regarding helping him in November 2008 and we had already given the majority of the money to Al and Greg. Mark Amos had shown Josh his (Mark's) Rule 35B paperwork back in May 2008 when they were both together in Beaumont. Upon his release Mark reached out to Josh, who sent the letter to us, and we contacted Mark. Mark said he believe the people we were dealing with in Beaumont were scamming us, and that he did not want us to give them any further money, but to keep them talking. Mark said that he was going to contact FBI Agent Quigley and Prosecutor Steve Sucusy in regards to this supposed Rule 35B. He reached out and made contact with them in December 2008, after which Agent Quigley called my cell phone number, asking me if this was true. We confirmed with Agent Quigley that we had paid approximately \$225k to this point and that we were hoping he would help us determine if this situation were real or not. If it were not real, we requested that the FBI help us to do a sting on these guys - stopping them from hurting us as well as others in this manner. He said he could not confirm, but that if we had paid money it was probably not real, but he would get back with us. Months passed and we didn't hear from Agent Quigley. Then Mark called (Agent Quigley) offering to help run the sting, but he got no response either. I think Agent Quigley called me back in April or around that time and asked if we were still involved with Al and Greg, to which I responded, "yes," he then countered my response with, 'he {Quigley} decided that he needed to help,' he said he 'was still checking into this and would get back to me', which he did not. We found this strange as well because the "scammers" told us that the FBI knew about all this and their job was to insure we didn't give out information or alert people that this was going on - so again it made us unsure of what was actually going on when this all fit together. Mark Amos said if they were not going to help us that he would get his person, Monterro Paul to step in and not only help Josh to get a real Rule 35B but also try to get our money back from this scam. So then our journey with Monterro Paul and Mark Amos began in April/May 2009. Maybe Mark saw that FBI didn't care about people losing money and that is why they perpetuated this new scam - maybe they really are real - we simply do not know what to believe any more.

So according to Monterro, he himself would get Josh released and provided paperwork to supposedly say that Josh would be released on 12/15/09, 180 days from when he supposedly submitted. Monterro told us that we would not need to pay him for this since we had been scammed, and he would try to recover some of this money. We asked him if he could help others, as we had met many people at Yazoo who we felt deserved help as well since their legal path had been as rocky as ours. Monterro said he might be able to, just to put him in touch with anyone that might be interested. He did get in touch with several people, 16 families that we are aware of, but not sure how many of those families

paid him money. We were under the impression that he was very much authentic, especially when he made calls into Yazoo FCI Low and talked to Daryl Hooks, the unit manager in Josh's unit. He spoke with him, as well as had many inmates called into his office and discussed with them that he and his colleague Amos could help them. In October 2009 the inmates that were working or involved with Monterro Paul were taken to the SHU and an investigation was launched into what was said to be a scam. Now again, if Monterro and Mark were indeed scammers why would they not have run at this point? Why hang around and get caught? Why meet someone you know is in the same place and you are aware they are all in SHU? Is it because you are authentic or because you don't think the FBI cares about this since they didn't seem to when we alerted and asked for help? A sting operation was set in motion by a woman named Rachel (the significant other of an inmate that was involved) and supposedly on 12/4/2009 Monterro Paul and Mark Amos were arrested and taken into custody regarding this. An FBI agent by the name of Claudia Arias went in to question Josh about these supposed scams, at which time Josh refused to talk to her without legal council. Agent Arias contacted the lawyer, Andrew Howell, about Josh's refusal to talk with her. We met with FBI agents in Jackson, Mississippi (with Mr. Howell present) inside of Andrew Howell's office regarding this and discussed how we were drawn into this; we expressed our concern to both FBI Agent Claudia Arias as well as FBI Agent Jeremy Turner, that this scam was tied into the Beaumont scam we had experienced and that we had contacted the Lubbock FBI Agent Keith Quigley regarding that scam. We told them that he (Quigley) had dismissed it and didn't help as we had requested, and he had spoken to Mark Amos as well regarding his possible help in this and again no action. They indicated that Josh and our family were just another victim in this scam by Monterro Paul and they would not be needing further information from us.

Again if you wanted to prosecute them why would you not want all the information you could get? We asked if they would help Josh if we were willing to work with them. Josh would not talk to them without an attorney because that is why he is in prison now, he did that with Agent Quigley and they used it against him, even when he didn't say what they said he did. No person in this family will ever talk to anyone again without an attorney present, we learned that lesson. You can't trust the FBI, they lie to get whatever they want. This is another justice issue that people should know about, sad but true. We did not give up at this point; as we didn't understand that if this were a scam how was it that the BOP was involved, since clearly Unit Manager Hooks had allowed those calls into the prison, and why was it that they could fall for such a scam. But we were somehow stupid for falling for this. We had signed court documents that had been given to us by Monterro and Mark, signed by AUSA Lawrence Brown. We put together information, contacted the Inspector Generals office, BOP offices, and FBI, only to be dismissed on all fronts. They (BOP) then moved Josh to upstate New York, after keeping him in solitary confinement for over 6 months (as well as moving him to the Medium Security, saying that there was a lack of bed space at the Low Security – where he had been serving his time. Note: He was one of two that were moved to the Medium SHU, the other guy talked to the FBI and was moved back, yet the excuse for moving the both of them out of 20+ guys involved was the lack of bed space.), trying to cover up all this information. Hoping to keep us quiet and stop all this while they covered it up. Why do we believe this was a

cover up? We still don't know for sure, but Monterro Paul and Mark Amos after over a year are still not in BOP system and can't find anything to show for sure they were truly convicted. So we don't know. We believe now that these two supposed scams were and are connected but we can't get any support to do anything about it. We do know that Monterro supposedly worked for DEA and we contacted the supposed DEA agent in Houston, Texas and received this confirmation back when we first talked to him. We also know that this same agent made phone calls to other people and supposedly offered to help with Rule 35B support. We made contact with the DEA several times and they wanted us to give them information regarding this agent, Scott Higgins. They were investigating him and we had proof for them, but again this seems to have been dismissed, as they didn't return further calls from us.

While we have reached out many times to legal entities for clarification, support, and answers, we were and are just dismissed, pushed away, or simply ignored. We have tried to do the right thing on many fronts, trying to find legal support to not only bring information forward but to also get the truth in front of the judge. There were so many lies given to and about us, as well as from people that we have trusted to bring justice, to the point that we pretty much have given up hope of anyone actually caring about the truth or justice. Maybe we could give it one more try. The facts are clear; the mistakes we made were due to our belief in justice, we didn't lie or cover anything up because we didn't think we needed to, we thought the truth would stand out, little did we know that they would put circumstantial evidence, innocent conversations, and use things against us rather than actually go after people who did commit a crime. Like the people who stole money from us; people who really did get the "victim" to send pictures to them (initial case), they (FBI, BOP, IG, etc.) ignored all the real criminals and took Josh's life away from him, branding him and ruining his life, and ours. We lost all our money to lawyer, and other lawyers, scams that we believed were legal action for our son, and lost our jobs, everything destroyed by one person who lied and others who followed and encouraged the lies.

We have a contact at ABC 20:20 who looked up phone numbers, license plates and tied to individuals in Beaumont that we can identify. We have since also found them on Facebook as well, and they have still been communicating with us via text message even and up to February of this year, 2011. We have phones that have all the text messages still on them to review - the only way to get them printed out is to have a court order, and or to send them one at a time to email and then print - we have over 500 so it is a time consuming activity - but happy for you to review them at any time.

We tracked serial numbers on the cash we gave them, but realize that this does little for us. We do have dates of each transaction, where we met them in person, and the text messages on my old phone and on my current phone. They talk about the officials who are involved and all this back and forth stuff. They had us send the Western Union money to a Tanya Richard, and Larry Stephenson, both of whom we know were connected with Alvin Warrick Jr. who was the other person involved and can identify the supposed "Greg" as Larry Stephenson as seen on his face book page. We can identify them from our meetings as well.

We paid the \$8k retainer first half on 9/4/08 Western Union and second half on 9/12/08 Western Union, then 10/2 we paid \$40k cash that was supposedly for Judge. Then we paid for cases \$20k 9/26 cash, \$5k 9/30 Western Union, \$15k 10/2 cash, \$30k 10/14 cash, \$45k 10/21 cash, \$5k 10/28 Western Union, \$6k 11/3 Western Union, \$2k 11/10 Western Union, \$2k 11/18 cash, and \$435.99 on 11/26 Western Union, \$40k 12/14 cash, \$20k 12/20, then on 03/07/09 and 03/08/09 we sent \$4430 and \$4509.99 again to Larry Stephenson the last payments we sent via Western Union and Money Gram - the total here is around \$248k.

The plates on the car they drove that when we met them in Shreveport, LA on one occasion when Greg came was 928-SZH Texas Plates - Black Buick - the phone numbers used and traced are:

409-721-9975 – fax
409-540-8432
409-293-8026
409-549-8144
409-434-8884
409-982-0302
409-549-0395

All of these numbers were traced and information shown on results of those traces

409-866-6707 Betty Rochelle original contact but not sure how her involvement played in or if she was just an innocent person who thought she was helping, we don't know.

We have learned so much in this journey; we don't trust anyone, especially government related, we just want our son home, we want to leave the country and start a new life. We have been preparing and as soon as we can legally get Josh home and approved to leave we will. We have no trust left here, we have had our lives ruined by lies and people we felt we should have been able to trust. We have lost everything and all we want now is peace and a place where Josh and his wife can start over, where my husband and I can live out our lives in peace with our family. We don't want much, just justice that we never received. We have evidence and proof. We have trusted and searched for anyway to get that justice; have provided and gathered information to help with that, we tried to communicate all this to the judge on our own when we could find no one else to help, it was ignored as well. Said we had to find legal means, we have been searching for that since day one, and all we have found is scam, lies, no support from anyone especially the people that should have done the right thing in the first place. We believed we were doing the right legal thing, and we tried to believe in justice, we are still trying.

I am sure that while trying to document and relate all that we have been through I am leaving out vital information - but I am willing to provide all the information I have - I am willing to go back through all the transcripts - all the details that we have gathered and share this with you - I can point out so much from all that we have gathered. So many lies, so much cover up, we just want to get our son home - give him and his wife a chance to start their lives - we want to leave and build new lives - with our belief in justice gone

we are not sure we can ever start over here in America - and with so much hurt - so we are looking at South America to start over - somewhere we can live simply and inexpensive - since we have lost all we have - we have to find a way to survive - and allow us to begin again - please give us that chance - please see that justice has evaded us on so many levels - see the truth - we realize you may have been fooled before, and all we can do is hope that God will guide you to see the truth - understand the suffering we have been through and give us a chance to get our lives back.

Cathy Ann Zuniga



FRANCESCA L. LaBRAKE
Notary Public, State of New York
No. 01LA6209406
Qualified in Essex County
My Commission Expires July 27, 2013

I prepared this as a sworn statement from Domingo Zuniga Jr. Domingo Zuniga Jr. that the events below are truthful and as close to exact dates and information as I can remember from documented proof to notes we made and events we have experienced.

We were contacted by Betty Rochelle from Beaumont, Texas in August of 2008. Betty's son was incarcerated in Beaumont FCI Low with my son, Joshua Zuniga, they worked together in the education department. She called us after Josh was transferred from Beaumont to Yazoo City, Mississippi FCI Low. She said she knew some people who might be able to help us get Josh home, using a Rule 35B, which she said she didn't really understand but they had helped some people she knew. She said she would give us their number and then it was up to us to decide if they could help us.

On 9/1/2008 or thereabouts my wife called the phone number we were given by Betty Rochelle and talked to a man that called himself Al and another called Greg. We later learned that Al was Al Warrick Jr. They informed us that we could have them review Josh's information and they would see if they could get the Judge and Prosecutor (from Josh's case) to agree to a Rule 35B for Josh. They claimed that what they did was get approval to work cases in exchange for reduced time for Josh and or getting him released. Each case would cost a certain amount of money and that the money then was divided up between judge, prosecutor and the guys bringing in the cases. They claimed it was very dangerous and that also each agency handled the cases differently. They said that while it was perfectly legal, it was not done so as to draw media and or other public attention. They incriminated many officials and with all we had been through, (the lies that the FBI told us and then said about us in court, the lies from our own family that put Josh and us in this situation), we didn't find any of this hard to believe. Until this situation we had never faced any form of legal problems. We were all upstanding citizens and just did what we could to help people, and that put our son in prison. This situation was caused by a very sad and confused young lady, and while my son and our entire family tried to help and support her, all this was turned against us, and my son has paid the price. My wife faxed case information to them (Al and Greg) on 9/3/2008 and we have a copy of the fax receipt and number it was sent to. They told us we needed to pay \$8k up front for them to see about taking the case. Then they claimed the judge wanted \$40k to support this request and 32 cases - at \$8k each, total at approximately \$256k. This number increased over time; it started out around \$100k and increased over the course of the next year ending up at the above number. They said they would give us a couple of free cases along the way! This information transpired after several phone calls and discussions back and forth. After faxing information regarding Josh's case to them and having a few meetings with them which they came to Dallas for. We met with the person known as Greg at a local Dallas restaurant, discussed how this worked, and were convinced this was something we had to try, we could not allow our son's life to be destroyed because of injustice. We explained the case to them and the fact that the FBI was a friend of the family, that he lied to us and then put information in his report that was not only falsified but was also not said. We also showed them the lousy legal support we had received and the proof we had from MySpace and Facebook; the documented evidence that showed she lied about everything she had said that Josh had done, including the fact her family also lied and that they (her mother, step-father Kevin as well as grandparents) had documented proof she was taken out of her school because of another person. That person was Kenny, supposedly he had abused her, etc. and then she came and stood there and lied to everyone (in court), they (her family) used Josh as their scapegoat to cover up bad parenting and a young woman who made a lot of mistakes. We tried

to help and for that we lost everything. We made our first \$8,000 payment to Al and Greg via Western Union on 9/4/2008 & 9/12/2008. We then proceeded to pay them mostly in cash payments which they either came to Dallas and picked up or we met them in Shreveport, LA for money drops. My wife and daughter-in-law made several drops when they were on their way to visit Josh and I was also there on many occasions as well when I made the trip with them. We did send a few more Western Union as well. We met with them on many occasions and while we had our doubts they seemed to have all the information, and we did know this process was real, we just didn't have any idea how it really worked. We felt we were doing the right thing and it was explained to us that it was legal, and as much information as we could find on it, it seemed real.

When Mark Amos, a former inmate at Beaumont FCI Low, contacted Josh regarding helping him in November 2008 and we had already given the majority of the money to Al and Greg. Mark Amos had shown Josh his (Mark's) Rule 35B paperwork back in May 2008 when they were both together in Beaumont. Upon his release Mark reached out to Josh, who sent the letter to us, and we contacted Mark. Mark said he believed the people we were dealing with in Beaumont were scamming us, and that he did not want us to give them any further money, but to keep them talking. Mark said that he was going to contact FBI Agent Quigley and Prosecutor Steve Sucsy in regards to this supposed Rule 35B. He reached out and made contact with them in December 2008, after which Agent Quigley called my cell phone number, asking me if this was true. We confirmed with Agent Quigley that we had paid approximately \$225k to this point and that we were hoping he would help us determine if this situation were real or not. If it were not real, we requested that the FBI help us to do a sting on these guys - stopping them from hurting us as well as others in this manner. He said he could not confirm, but that if we had paid money it was probably not real, but he would get back with us. Months passed and we didn't hear from Agent Quigley. Then Mark called (Agent Quigley) offering to help run the sting, but he got no response either. I think Agent Quigley called me back in April or around that time and asked if we were still involved with Al and Greg, to which I responded, "yes," he then countered my response with, 'he {Quigley} decided that he needed to help,' he said he 'was still checking into this and would get back to me', which he did not. We found this strange as well because the "scammers" told us that the FBI knew about all this and their job was to insure we didn't give out information or alert people that this was going on - so again it made us unsure of what was actually going on when this all fit together. Mark Amos said if they were not going to help us that he would get his person, Monterro Paul to step in and not only help Josh to get a real Rule 35B but also try to get our money back from this scam. So then our journey with Monterro Paul and Mark Amos began in April/May 2009. Maybe Mark saw that FBI didn't care about people losing money and that is why they perpetuated this new scam - maybe they really are real - we simply do not know what to believe any more.

So according to Monterro, he himself would get Josh released and provided paperwork to supposedly say that Josh would be released on 12/15/09, 180 days from when he supposedly submitted. Monterro told us that we would not need to pay him for this since we had been scammed, and he would try to recover some of this money. We asked him if he could help others, as we had met many people at Yazoo who we felt deserved help as well since their legal path had been as rocky as ours. Monterro said he might be able to, just to put him in touch with anyone that might be interested. He did get in touch with several people, 16 families that we are aware of, but not sure how many of those families paid him money. We were under the

impression that he was very much authentic, especially when he made calls into Yazoo FCI Low and talked to Daryl Hooks, the unit manager in Josh's unit. He spoke with him, as well as had many inmates called into his office and discussed with them that he and his colleague Amos could help them. In October 2009 the inmates that were working or involved with Monterro Paul were taken to the SHU and an investigation was launched into what was said to be a scam. Now again, if Monterro and Mark were indeed scammers why would they not have run at this point? Why hang around and get caught? Why meet someone you know is in the same place and you are aware they are all in SHU? Is it because you are authentic or because you don't think the FBI cares about this since they didn't seem to when we alerted and asked for help? A sting operation was set in motion by a woman named Rachel (the significant other of an inmate that was involved) and supposedly on 12/4/2009 Monterro Paul and Mark Amos were arrested and taken into custody regarding this. An FBI agent by the name of Claudia Arias went in to question Josh about these supposed scams, at which time Josh refused to talk to her without legal council. Agent Arias contacted the lawyer, Andrew Howell, about Josh's refusal to talk with her. We (my wife, my daughter-in-law, and myself) met with FBI agents in Jackson, Mississippi (with Mr. Howell present) inside of Andrew Howell's office regarding this and discussed how we were drawn into this; we expressed our concern to both FBI Agent Claudia Arias as well as FBI Agent Jeremy Turner, that this scam was tied into the Beaumont scam we had experienced and that we had contacted the Lubbock FBI Agent Keith Quigley regarding that scam. We told them that he (Quigley) had dismissed it and didn't help as we had requested, and he had spoken to Mark Amos as well regarding his possible help in this and again no action. They indicated that Josh and our family were just another victim in this scam by Monterro Paul and they would not be needing further information from us.

We asked if they would help Josh if we were willing to work with them. Josh would not talk to them without an attorney because that is why he is in prison now, he did that with Agent Quigley and they used it against him, even when he didn't say what they said he did. No person in this family will ever talk to anyone again without an attorney present, we learned that lesson. You can't trust the FBI, they lie to get whatever they want. This is another justice issue that people should know about, sad but true. We did not give up at this point; as we didn't understand that if this were a scam how was it that the BOP was involved, since clearly Unit Manager Hooks had allowed those calls into the prison, and why was it that they could fall for such a scam. But we were somehow stupid for falling for this. We had signed court documents that had been given to us by Monterro and Mark, signed by AUSA Lawrence Brown. We put together information, contacted the Inspector Generals office, BOP offices, and FBI, only to be dismissed on all fronts. They (BOP) then moved Josh to upstate New York, after keeping him in solitary confinement for over 6 months (as well as moving him to the Medium Security, saying that there was a lack of bed space at the Low Security – where he had been serving his time. Note: He was one of two that were moved to the Medium SHU, the other guy talked to the FBI and was moved back, yet the excuse for moving the both of them out of 20+ guys involved was the lack of bed space.), trying to cover up all this information. Hoping to keep us quiet and stop all this while they covered it up. Why do we believe this was a cover up? We still don't know for sure, but Monterro Paul and Mark Amos after over a year are still not in BOP system and can't find anything to show for sure they were truly convicted. So we don't know. We believe now that these two supposed scams were and are connected but we can't get any support to do anything about it. We do know that Monterro supposedly worked for DEA and we contacted the

supposed DEA agent in Houston, Texas and received this confirmation back when we first talked to him. We also know that this same agent made phone calls to other people and supposedly offered to help with Rule 35B support. We made contact with the DEA several times and they wanted us to give them information regarding this agent, Scott Higgins. They were investigating him and we had proof for them, but again this seems to have been dismissed, as they didn't return further calls from us.

While we have reached out many times to legal entities for clarification, support, and answers, we were and are just dismissed, pushed away, or simply ignored. We have tried to do the right thing on many fronts, trying to find legal support to not only bring information forward but to also get the truth in front of the judge. There were so many lies given to and about us, as well as from people that we have trusted to bring justice, to the point that we pretty much have given up hope of anyone actually caring about the truth or justice. Maybe we could give it one more try. The facts are clear; the mistakes we made were due to our belief in justice, we didn't lie or cover anything up because we didn't think we needed to, we thought the truth would stand out, little did we know that they would put circumstantial evidence, innocent conversations, and use things against us rather than actually go after people who did commit a crime. Like the people who stole money from us; people who really did get the "victim" to send pictures to them (initial case), they (FBI, BOP, IG, etc.) ignored all the real criminals and took Josh's life away from him, branding him and ruining his life, and ours. We lost all our money to lawyer, and other lawyers, scams that we believed were legal action for our son, and lost our jobs, everything destroyed by one person who lied and others who followed and encouraged the lies.

We have a contact at ABC 20:20 who looked up phone numbers, license plates and tied to individuals in Beaumont that we can identify. We have since also found them on Facebook as well, and they have still been communicating with us via text message even and up to February of this year, 2011. We have phones that have all the text messages still on them to review - the only way to get them printed out is to have a court order, and or to send them one at a time to email and then print - we have over 500 so it is a time consuming activity - but happy for you to review them at any time.

We tracked serial numbers on the cash we gave them, but realize that this does little for us. We do have dates of each transaction, where we met them in person, and the text messages on my old phone and on my current phone. They talk about the officials who are involved and all this back and forth stuff. They had us send the Western Union money to a Tanya Richard, and Larry Stephenson, both of whom we know were connected with Alvin Warrick Jr. who was the other person involved and can identify the supposed "Greg" as Larry Stephenson as seen on his face book page. We can identify them from our meetings as well.

We paid the \$8k retainer first half on 9/4/08 Western Union and second half on 9/12/08 Western Union, then 10/2 we paid \$40k cash that was supposedly for Judge. Then we paid for cases \$20k 9/26 cash, \$5k 9/30 Western Union, \$15k 10/2 cash, \$30k 10/14 cash, \$45k 10/21 cash, \$5k 10/28 Western Union, \$6k 11/3 Western Union, \$2k 11/10 Western Union, \$2k 11/18 cash, and \$435.99 on 11/26 Western Union, \$40k 12/14 cash, \$20k 12/20, then on 03/07/09 and 03/08/09 we sent \$4430 and \$4509.99 again to Larry Stephenson the last payments we sent via Western Union and Money Gram - the total here is around \$248k.

The plates on the car they drove that when we met them in Shreveport, LA on one occasion when Greg came was 928-SZH Texas Plates - Black Buick - the phone numbers used and traced are:

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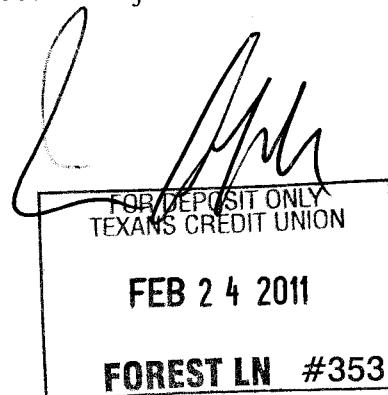
All of these numbers were traced and information shown on results of those traces

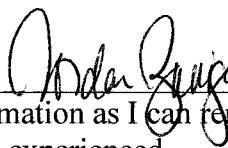
409-866-6707 Betty Rochelle original contact but not sure how her involvement played in or if she was just an innocent person who thought she was helping, we don't know.

We have learned so much in this journey; we don't trust anyone, especially government related, we just want our son home, we want to leave the country and start a new life. We have been preparing and as soon as we can legally get Josh home and approved to leave we will. We have no trust left here, we have had our lives ruined by lies and people we felt we should have been able to trust. We have lost everything and all we want now is peace and a place where Josh and his wife can start over, where my husband and I can live out our lives in peace with our family. We don't want much, just justice that we never received. We have evidence and proof. We have trusted and searched for anyway to get that justice; have provided and gathered information to help with that, we tried to communicate all this to the judge on our own when we could find no one else to help, it was ignored as well. Said we had to find legal means, we have been searching for that since day one, and all we have found is scam, lies, no support from anyone especially the people that should have done the right thing in the first place. We believed we were doing the right legal thing, and we tried to believe in justice, we are still trying.

While my wife and daughter-in-law have tried diligently to document our journey and have worked so much on all this information to present and help to get some justice for us, I try to support and do as much as I can as well. This has been such a stress for our family - I have a heart condition, and just taking care of things as best I can. Worry over money - jobs - our son - my wife and my daughter-in-law are daily concerns that I face and feel so helpless. We have totaled two vehicles over the course of these last 4 years - on trips to visit our son - nothing that could have been avoided and just more to deal with. I pray to God everyday wondering why all this has been put on us, wondering if we are suppose to tell our story to someone, wondering if we will make it another day. All we can do is tell our story, provide the evidence we have, and pray that someone will finally hear us, finally care about the injustice and make it right.

Domingo Zuniga Jr.



I prepared this as a sworn statement from Jordan Lee Zuniga  that the events below are truthful and as close to exact dates and information as I can remember from documented proof to notes we made and events we have experienced.

We, my mother-in-law Cathy Zuniga and I, were contacted by Betty Rochelle from Beaumont, Texas in August of 2008 (She spoke with Cathy, but I was always present). Betty's son was incarcerated in Beaumont FCI Low with my husband, Joshua Zuniga. Josh and Betty's son worked together in the education department. Betty called us after Josh was transferred from Beaumont to Yazoo City, Mississippi FCI Low. She said that she knew some people who might be able to help us get Josh home, using a Rule 35B, which she said she didn't really understand what it was, but that they had helped some people she knew. She said she would give us their number and then it was up to us to decide if they could help us.

On 9/1/2008 or thereabouts we called the phone number we were given by Betty Rochelle and talked to a man that called himself Al and another called Greg. We later learned that Al was Alvin Warrick Jr. The two said men informed us that we could have them review Josh's information and they would see if they could get the Judge and Prosecutor (from Josh's case) to agree to a *Rule 35B for Josh.

Al and Greg claimed that what they did was get approval to work cases in exchange for reduced time for Josh and or getting him released. Each case would cost a certain amount of money and that the money then was divided up between judge, prosecutor and the guys bringing in the cases. They claimed it was very dangerous and that also each agency handled the cases differently. They said that while it was perfectly legal, it was not done so as to draw media and or other public attention. They incriminated many officials and with everything that I had learned since my first dealings with the BOP, I didn't find any of this hard to believe (nor did Cathy – my mother-in-law, Domingo - my father-in-law, or Joshua – my husband, after having dealt with the FBI breaking into their home and the lies that were told to them by both family members as well as government officials).

Until this situation my husband's family had never faced any form of legal problems, nor had I. We were all upstanding citizens and just did what we could in our own ways to help people, and for that my husband ended up in prison. He tried his best to help a seemingly neglected young woman, with homework and to be a friend – in my eyes she viewed him as a crush, which would later develop into more of a father figure.

Cathy and I faxed case information to them (Al and Greg) on 9/3/2008 for which we have a copy of the fax receipt and the number which it was sent to. Al and Greg told us we needed to pay \$8k up front for them to see about taking the case. Then they claimed the judge wanted \$40k to support this request and 32 cases - at \$8k each, total at approximately \$256k. This number increased over time; it started out around \$100k and increased over the course of the next year ending up at the above number. These two men said they would give us a couple of free cases along the way. This information transpired after several phone calls and discussions back and forth. After faxing information

regarding Josh's case to them and having a few meetings with them, which they came to Dallas for. Cathy, Domingo and I explained the case to Al and Greg, going over the fact that the FBI was a friend of the family, that he lied to us and then put information in his report that was not only falsified but was also not said by Josh, Cathy or Domingo. We also showed them the lousy legal support that we had received and the proof we had from MySpace and Facebook; the documented evidence that showed she (the victim) had lied about everything that she had said Josh had done, including the fact that her family also lied and that they (her mother, step-father Kevin as well as grandparents) had documentation proving that she was taken out of her school because of another person. That person was Kenny, a boy that she had dated and went to school with. Supposedly he had abused her, etc. and then she came and stood there and lied to everyone (in court); which I have compared line by line from court transcripts.

We made our first \$8,000 payment to Al and Greg via Western Union on 9/4/2008 & 9/12/2008. We then proceeded to pay them mostly in cash payments which they either came to Dallas and picked up or we met them in Shreveport, LA for money drops. We did send a few more Western Union as well. We met with them on many occasions and while we had our doubts they seemed to have all the information, and we did know this process was real, we just didn't have any idea how it really worked.

When Mark Amos, a former inmate at Beaumont FCI Low, contacted Josh regarding helping him in November 2008 and we had already given the majority of the money to Al and Greg. Mark Amos had shown Josh his (Mark's) Rule 35B paperwork back in May 2008 when they were both together in Beaumont. Upon his release Mark reached out to Josh by way of letter, who sent the letter to us, and we contacted Mark. Mark said he believed the people we were dealing with in Beaumont were scamming us, and that he did not want us to give them any further money, but to keep them talking. Mark said that he was going to contact FBI Agent Quigley and Prosecutor Steve Sucusy in regards to this supposed Rule 35B. He reached out and made contact with them in December 2008, after which Agent Quigley called Cathy's cell phone number, asking her if this was true. She confirmed with Agent Quigley that we had paid approximately \$225k to this point and that we were hoping he would help us determine if this situation were real or not. If it were not real, we requested that the FBI help us to do a sting on these guys - stopping them from hurting us as well as others in this manner. He said he could not confirm, but that if we had paid money it was probably not real, but he would get back with us. I heard all of this as I was sitting next to her in the car and the phone was turned up. Months passed and we didn't hear from Agent Quigley. Then Mark called (Agent Quigley) offering to help run the sting, but he got no response either. Agent Quigley called Cathy back in April or around that time, I believe and asked if we were still involved with Al and Greg, to which she responded, "yes," he then countered her response with, 'he {Quigley} decided that he needed to help,' he said he 'was still checking into this and would get back to us', which he did not. We found this strange as well because the "scammers" told us that the FBI knew about all this and their job was to insure we didn't give out information or alert people that this was going on - so again it made us unsure of what was actually going on when this all fit together. Mark Amos said if they were not going to help us that he would get his person, Monterro Paul to step in and not only help

Josh to get a real Rule 35B but also try to get our money back from this scam. So then our journey with Monterro Paul and Mark Amos began in April/May 2009. Maybe Mark saw that FBI didn't care about people losing money and that is why they perpetuated this new scam - maybe they really are real - we simply do not know what to believe any more.

So according to Monterro, he himself would get Josh released and provided paperwork to supposedly say that Josh would be released on 12/15/09, 180 days from when he supposedly submitted. Monterro told us that we would not need to pay him for this since we had been scammed, and he would try to recover some of this money. We asked him if he could help others, as we had met many people at Yazoo who we felt deserved help as well since their legal path had been as rocky as ours. Monterro said he might be able to, just to put him in touch with anyone that might be interested. He did get in touch with several people, 16 families that we are aware of (not all provided by us, it became word of mouth), but not sure how many of those families paid him money. We were under the impression that he was very much authentic, especially when he (Monterro Paul) made calls into Yazoo FCI Low and talked to Daryl Hooks, the unit manager in Josh's unit. He spoke with him, as well as had many inmates called into Daryl Hook's office and discussed with them that he and his colleague, Amos, could help them. In October 2009 the inmates that were working or involved with Monterro Paul were taken to the SHU and an investigation was launched into what was said to be a scam.

Now again, if Monterro and Mark were indeed scammers why would they not have run at this point? Why hang around and get caught? Is it because you are authentic or because you don't think the FBI cares about this since they didn't seem to when we alerted and asked for help?

A sting operation was set in motion by a woman named Rachel (the significant other of an inmate that was involved) and supposedly on 12/4/2009 Monterro Paul and Mark Amos were arrested and taken into custody regarding this. An FBI agent by the name of Claudia Arias went in to question Josh about these supposed scams, at which time Josh refused to talk to her without legal council. Agent Arias contact the lawyer working with on Josh's case, Andrew Howell, about Josh's refusal to talk with her. We met with FBI agents in Jackson, Mississippi (with Mr. Howell present) inside of Andrew Howell's office regarding this and discussed how we were drawn into this situation. We expressed our concern to both FBI Agent Claudia Arias as well as FBI Agent Jeremy Turner, that this scam was tied into the scam that we had experience in Beaumont, for which we had contacted the Lubbock FBI Agent Keith Quigley (in regards to that scam). We told the FBI agents, with Mr. Howell present, that he (Quigley) had dismissed it and didn't help as we had requested. They (Agents Arias and Turner) indicated that Josh and our family were just another set of victims in this scam by Monterro Paul and that the FBI would not be needing further information from us.

Again we ask, if the FBI or government wanted to prosecute Monterro Paul and Mark Amos, why would you not want all the information you could get? We asked if they would help Josh if we were willing to work with them. Though, Josh would not talk to

them without an attorney because that is why he is in prison now, he did that with Agent Quigley, initially, and they used it against him, even when he didn't say what they said he did. No person in this family will ever talk to anyone again without an attorney present, that lesson has been learned. The FBI cannot be trusted, they lie to get what they want, which has been proven time and time again by numerous cases, including the initial case with Joshua, with Monterro/Mark as well as many others not affiliated with this family. Unfortunately, this is yet another issue in the justice system of the United States of America that the people of this nation should know about; a sad but true fact.

In regard to Mark/Monterro, we as a family did not give up at this point; we didn't understand that if this were a scam how was it that the BOP was involved, since clearly Unit Manager Hooks had allowed those calls into the prison, and why was it that they could fall for such a scam. Yet we have been made to feel, by officials of the government, that we were somehow stupid for falling for this, when ironically enough, they apparently fell for it too – that is if it was a scam. After the meeting with Agents Arias and Turner, we put together information, contacted the Inspector Generals office, BOP offices, and FBI, only to be dismissed on all fronts. They (BOP) then moved Josh to upstate New York**, after keeping him in solitary confinement for over 6 months (as well as moving him to the Medium Security, saying that there was a lack of bed space at the Low Security – where he had been serving his time. Note: He was one of two that were moved to the Medium SHU, the other guy talked to the FBI and was moved back, yet the excuse for moving the both them of 20+ guys involved to the Medium was the lack of bed space.), trying to cover up all this information. The only explanation is that all that were involved, were hoping to keep us quiet (through fear) and stop pursuing legal answers while they (BOP) covered it up.

Why do we believe this was a cover up? We still don't know for sure, but Monterro Paul and Mark Amos, over a year later are still not in BOP system and we as well as legal advisers, still cannot find anything to show for sure they were truly convicted. Therefore, we don't know, but can only suspect that this is a cover up from the lack of proof there otherwise. We believe now that these two supposed scams Monterro/Mark and Al/Greg were and are connected, but we can't get any support to do anything about it. We do know that Monterro supposedly worked for the DEA. We contacted the supposed DEA agent in Houston, Texas, whom confirmed in the first phone conversation that yes, Monterro Paul did work for him. We also know that this same agent, Scott Higgins, made phone calls to other people and supposedly offered to help with Rule 35B support. We made contact with the DEA several times and they wanted us to give them information regarding this agent, Scott Higgins. Supposedly, they were investigating him and we had proof for them, but again this seems to have been dismissed, as they didn't return further calls from us.

While we have reached out many times to legal entities for clarification, support, and answers, in each instance, we are just dismissed, pushed away, or simply ignored. We have tried to do the right thing on many fronts, trying to find legal support to not only bring information forward but to also get the truth in front of the judge, though most of the time seems like an impossible task, for he refuses to open the case back up.

While dealing with the Inspector General's office, Cathy and I sent letters to the judge, letting him know that we had new information regarding the case and that we would like to present him with the 4 inch binder of new evidence that we had come to possess, since the initial trial. When checking for an update with Judge Cummings office, the Judge's secretary told my mother-in-law over the phone that he was not interested and had thrown our request in the trash. I found this to be extremely unprofessional and even further, unjust.

There were so many lies given to and about us, as well as from people that we have trusted to bring justice; to the point that we pretty much have given up hope of anyone actually caring about the truth or justice. Hope is all that we have left though, and maybe we could give it one more try, but our faith in the system is nearly moot. The facts are clear; the mistakes made were due to this families belief in justice (within the United States of America), this family did not lie or cover anything up because they didn't think that they needed to. The mutual thought was that the truth would stand out. Little did they, or I at this point, know that government officials would put circumstantial evidence, innocent conversations, and use things against the people and in this case, my family, rather than actually go after people who did commit a crime (such as the man that the victim, sent pictures to initially; the man that Josh worried about and thus the reason for asking his niece what kinds of 'modeling photos' she was sending to this stranger in California). Like the people who stole money from us; people who really did get the "victim" to send pictures to them (initial case), they (FBI, BOP, IG, etc.) ignored all the real criminals and took Josh's life away from him, branding him and ruining is life, as well as ours as a family. As a family, we lost all of our money to the initial lawyer, and other lawyers there after, as well as scams that we believed were legal action for my husband. Cathy and Domingo have lost their jobs of 30+ years; everything has been destroyed by one person who lied and the others who followed, fed into and encouraged the lies. Lies that are on court record.

We have a contact at ABC 20:20 who looked up phone numbers, license plates, tying them to individuals in Beaumont that we can identify. We have since also found them on Facebook as well. They have still been communicating with us via text message (on Cathy's phone, up until about 9 months ago on my cell phone) even and up to February of this year, 2011.

We recorded and tracked serial numbers on the cash we gave them, but realize that this does little for us. We do have dates of each transaction, where we met them in person, and the text messages on my old phone, as well as Cathy's old as well as current cell phones. They talk about the officials who are involved and all this back and forth stuff. They had us send the Western Union money to:

Tanya Richard
Larry Stephenson

Both of whom we know were connected with "Al" or Alvin Warrick Jr. who was the

other person involved and can identify the supposed "Greg" as Larry Stephenson as seen on his Facebook page. As we had met them in person numerous times, we can also identify the two and give physical descriptions.

We paid the \$8k retainer first half on 9/4/08 Western Union and second half on 9/12/08 Western Union, then 10/2/08 paid \$40k cash which we were told was supposedly for Judge. Then we paid for cases \$20k 9/26/08 cash, \$5k 9/30/08 Western Union, \$15k 10/2/08 cash, \$30k 10/14/08 cash, \$45k 10/21/08 cash, \$5k 10/28/08 Western Union, \$6k 11/3/08 Western Union, \$2k 11/10/08 Western Union, \$2k 11/18/08 cash, and \$435.99 on 11/26 Western Union, \$40k 12/14/08 cash, \$20k 12/20/08, then on 03/07/09 and 03/08/09 we sent \$4430 and \$4509.99 again to Larry Stephenson the last payments we sent via Western Union and Money Gram - the total here is around \$248k.

We, Cathy, Domingo and I met them, or Greg at least (we usually talked to him on in-person things, while Al was more of the behind the scenes guy and we would talk to him on the phone, but rarely would we speak to Greg on the phone) in Shreveport, LA at a seafood restaurant called:

Brothers
4916 Monkhouse Drive
Shreveport, LA

The car that they drove that night and the plates are:

928-SZH
Texas Plates
Black Buick

The phone numbers used and traced are:

409-721-9975 – fax
409-540-8432
409-293-8026
409-549-8144
409-434-8884
409-982-0302
409-549-0395

All of these numbers were traced and we have information to show the results of those traces.

409-866-6707 Betty Rochelle original contact but not sure how her involvement played in or if she was just an innocent person who thought she was helping; we don't know.

We have learned so much in this journey; we don't trust anyone, especially government related, I just want my husband home. We want to leave this country and start a new life. We, Cathy, Mingo and I have been preparing and as soon as we can legally get Josh home and cleared to leave, we will. We have no trust left here, our lives (especially Josh's) has been ruined by lies as well as people we felt we should have been able to trust. We have

lost everything and all we want now is peace and a place where Josh and I can start over. A place where my in-laws, Josh's parents, can live out their lives in peace. We only want the justice that was never received. We HAVE evidence and proof. Though thus far it has proved futile, we have trusted and searched for anyway to get that justice; have provided and gathered information to help with that. As previously stated, we tried to communicate all this to the judge on our own when we could find no one else to help, it was ignored as well. Since day one, it has been told to my husband, and his parents that we need to find legal means, which we have been searching for since. But I don't understand what that entails exactly, when we have gone through each avenue both presented and those which we have had to find, in regard to 'legal means' yet, each time, we end up more in debt and worse than we started off. We are out of options at this point. All we have found are: scams, lies, and no support from anyone, especially the people that should have done the right thing in the first place. We believed we were doing the right legal thing – as stated, we even checked with the FBI as well as other agencies, their dismissal led us deeper into the belief that these situations or circumstances were legal and legitimate. We have tried to believe in justice, we are still trying, but as I stated prior, each time it seems more foolish and naive to believe in a system that continues to punish the innocent, while enabling the guilty. Hopefully this time proves to be the first step to the restoration of not only my, but this families belief in the United States justice system.

*NOTE: Cathy and I did as much research via the internet and books, about what a Rule 35B was as well as contacting the FBI, Inspector General and BOP (all levels) for information on what this actually was. In the end, all of the information that we were given or found about it, was allegedly true to the best of our knowledge in regard to both Al/Greg and Mark/Monterro.

**While Josh was in Solitary confinement, he was told by Daryl Hooks, whom was still in his position as a Unit Manager (Yazoo City, MS – FCI LOW Security), that if it were up to him, he would make sure that Joshua got moved to Virginia or at least the farthest point possible from his family. When Josh was moved, we researched and found that though he had not been moved to Virginia, he had however been moved to the farthest point in the United States from our home. Not only had that happened, but he was also moved up a security level, when his points did not constitute anything above a Low. Again, this is ironic that Mr. Hooks was able to not only keep his job, but also have contact with Josh, not only in public, but also in private. I feel that this was a direct threat to my husband and that Mr. Hooks acted upon is 'promise' to Josh, for which my husband was moved to Ray Brook, NY for. This has cause much emotional damage to both Josh as well as my family. We all understand that prison is a punishment, but even in prison, there are rules and law, many of which in this situation have been severely broken and or violated.


KATIE R. STEPHENSON
Notary Public, State of New York
Qualified in Essex County
Reg. No. 01ST6084953
My Commission Expires Dec. 16, 2014


February 24, 2011

Federal Inmate Advocates

572 John Ross Pkwy, #107, Rock Hill, SC 29730
Phone: (803)280-5778 Fax: (803) 327-1756
Email: fia2255@yahoo.com

April 25, 2011

Clerk Of Court
U. S. District Court
1205 Texas Avenue
Room 209
Lubbock, Texas 79401-4091

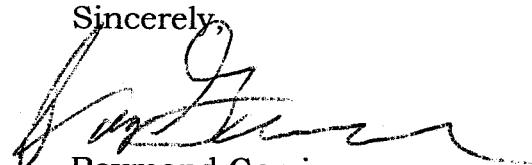
5-11 CV0083-C

Re: §2255 Petition
Joshua Heath Zuniga

Please find enclosed the original and 3 copies of the Motion Under 28 U.S.C. Section 2255, Supporting Memorandum, Motion For Authorization To File Out-of-Time, and supporting affidavits which we send to you on behalf of Joshua Heath Zuniga, USM #34641-177. Please file and return a stamped filed copy in the self-addressed stamped envelope which I have provided.

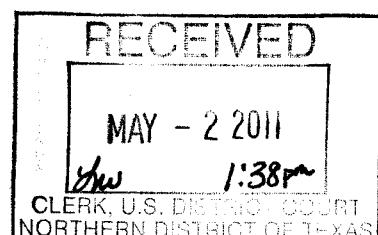
Thank you for your consideration in this matter.

Sincerely,



Raymond Garrison
For Joshua Zuniga

Enc: As stated





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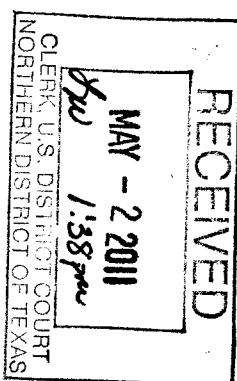
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PRIORITY



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